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Attorney for Defendant,
Stellar Recovery, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TIMOTHY TOTH and GARY HALL, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

v.

STELLAR RECOVERY, INC.,

Defendant

Case No.: 2:13-cv-01276-LDG-GWF

PARTIES' MOTION FOR RELIEF OF UNTIMELY FILING JOINT STATUS REPORT RE: DISCOVERY, PURSUANT TO SPECIAL ORDER 109

Plaintiffs TIMOTHY TOTH and GARY HALL (jointly as "Plaintiffs") and Defendant STELLAR RECOVERY, INC. ("Defendant") jointly submit this motion seeking relief for the untimely filing of the joint status report re discovery due to a power outage causing the CM/ECF server to be down from February 21, 2014 to February 23, 2014:

PARTIES' MOTION FOR RELIEF OF UNTIMELY FILING JOINT STATUS REPORT RE: DISCOVERY

1. Plaintiffs and Defendant met and conferred regarding the joint status report on February 20, 2014 and February 21, 2014.
2. At approximately 5:30 p.m. PST, Plaintiffs attempted to lodge the agreed upon joint status report on the CM/ECF system.
3. Multiple counsel attempted to lodge the report over the next 6 hours, and again on February 22, 2014.
4. At approximately 6:45 p.m. PST on February 22, 2014, Plaintiffs were able to successfully lodge the joint status report (Dkt. No. 27).
5. The parties seek relief for any discipline that would result from this Court deeming its submission untimely, pursuant to Special Order 109, Section IX (“Technical Failures”).

Dated: February 24, 2014

Respectfully submitted,

HAINES & KRIEGER

By: /s/ David Krieger
DAVID KRIEGER, ESQ.
ATTORNEY FOR PLAINTIFF

FOLEY & MANSFIELD

By: /s/ Sean P. Flynn
SEAN P. FLYNN, ESQ.
ATTORNEY FOR DEFENDANT

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SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of the Electronic Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Sean P. Flynn, counsel for Defendant, and that I have obtained Mr. Flynn's authorization to affix his electronic signature to this document.

Dated: February 24, 2014

HAINES & KRIEGER

By: /s/ David Krieger
DAVID KRIEGER, ESQ.
ATTORNEY FOR PLAINTIFF

**PARTIES' MOTION FOR RELIEF OF UNTIMELY FILING JOINT STATUS REPORT
RE: DISCOVERY**

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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9
10 **TIMOTHY TOTH and GARY**
11 **HALL, INDIVIDUALLY AND ON**
12 **BEHALF OF ALL OTHERS**
13 **SIMILARLY SITUATED,**

14 Plaintiff,

15 v.

16 **STELLAR RECOVERY, INC.,**

17 Defendant

18 **Case No.: 2:13-cv-01276-LDG-GWF**

19 ~~[PROPOSED]~~ ORDER GRANTING
20 PARTIES' MOTION FOR RELIEF OF
21 UNTIMELY FILING JOINT STATUS
22 REPORT RE: DISCOVERY,
23 PURSUANT TO SPECIAL ORDER
24 109

25 Having read the jointly submitted papers submitted in support of the motion
26 and having considered the arguments of counsel, the Court finds that justice
27 requires that relief from untimely filing is granted.

28 Accordingly, IT IS ORDERED THAT:

29 I. The motion is GRANTED;

30 Dated: February 25, 2014



31 Honorable George Foley, Jr.
32 U.S. District Magistrate Judge